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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
SEIJI KOBAYASHI, ET AL. : EXAMINER: HUBER, PAUL W.
SERIAL NO: 10/810,654 :
FILED: MARCH 29, 2004 : GROUP ART UNIT: 2627
FOR: OPTICAL INFORMATION :
RECORDING MEDIUM, OPTICAL
INFORMATION RECORDING
APPARATUS AND METHOD

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Official Action dated December 18, 2006, Applicants provisionally elect for examination the invention of Group I corresponding to Claims 22-47 drawn to a recording medium, and method and apparatus of duplicating a recording medium. Applicants respectfully traverse the Restriction Requirement as it is respectfully submitted that examination of Claims 48-51 would not place an unreasonable burden on the examination process.

Applicants further traverse the "Election of Species" requirement as not complying with MPEP § 1893.03(d). In this regard, MPEP § 1893.03(d) establishes that the Examiner "must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group" (emphasis added). The Election does not list the different groups of claims but rather lists four figures and identifies

them as species. Furthermore, it DOES NOT “(2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group” (emphasis added).

Nevertheless, with regard to the Election of Species requirement, Applicants provisionally elect Species I, corresponding to Figure 1, and also corresponding to Claims 22-31. It is respectfully submitted that Claims 22-31 are generic with regard to each of the four listed species.

If the election requirement is not reversed, Applicants respectfully request examination of Claims 22-31 in due course.


Respectfully submitted,

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